IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.6015 of 2007 (O&M)

Date of Decision: 22.11.2007

Sandesh Kumar Sethi & Anr. ..Petitioners

Vs.

Tilak Raj Sharma & Anr. ..Respondents

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.B.R.Mahajan, Advocate,
for the petitioners.

Mr.Vikas Jain, Advocate,
for Caveator-respondent No.1.

Vinod K.Sharma,J. (Oral)

Present revision petition has been filed against the order passed by the learned Appellate Authority, Chandigarh ordering the eviction of the petitioners from the property in dispute on the ground of subletting.

The respondent-landlord filed a petition under section 13 of the East Punjab Urban Rent Restriction Act, 1949 on the grounds of non-payment of rent and subletting. In the rent petition the rent claimed was Rs.2200/- per month whereas rate of rent was disputed by the tenants

wherein it was pleaded that the rate of rent was Rs.1200/- per month.

Both the courts below have recorded a concurrent finding that the rate of rent was Rs.1200/- per month and therefore the deposit made by the tenants was valid. Further, the learned Rent Controller was pleased to dismiss the petition by holding that the petitioners have failed to prove the subletting of the premises. However the said finding has been reversed by the learned Appellate Authority. The appellate authority has come to this conclusion on appreciation of evidence. The appellate authority has recorded a finding of fact that Ishar Singh is a stranger and was not related to respondents No.1 and 2 i.e. the tenant or her husband. It is also recorded that Ishar Singh has been occupying part of the demised premises and his possession was exclusive. The court by believing the statement of PW 1 also recorded that the said passing of possession was for consideration of Rs.1000/-. The finding recorded by the appellate authority on appreciation of evidence holding that subletting stood proved is not open to challenge in this revision petition.

Learned counsel for the petitioners contends that finding recorded by the learned appellate authority cannot be sustained as it was proved on record that Ishar Singh came in possession of the property in the year 1998, whereas the landlord in his statement has stated that he had visited the premises in the year 1996 and therefore, his evidence could not be believed qua the ground of subletting. The learned counsel for the petitioners also contends that for the same reason statement of PW 1 could also not be believed. This plea is not available to the petitioners. It is not in

dispute that Ishar Singh is actually in possession of the property as the case set up by the tenant himself is that Ishar Singh has been kept there to protect his forcible eviction by the landlord.

No merit. Dismissed.

Learned counsel for the petitioners states that they may be granted 3 months' time to vacate the premises and to make alternative arrangement. The request is allowed subject to the petitioners' furnishing an affidavit in this court undertaking to hand over the vacant possession of the premises in dispute to the respondent-landlord on or before 21.2.2008.

Such affidavit be filed within 15 days from today. The tenants are also directed to pay all the arrears of rent and continue paying the rent in future during this period.

22.11. 2007 **(Vinod K.Sharma)**
rp **Judge**